

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	AC
	)	
v.	)	(IEPA NO. 156-07-AC)
	)	
JOHN A. & KAY E. OLDHAM,	)	
	)	
Respondent.	)	

NOTICE OF FILING

TO: Michelle M. Ryan	Illinois Pollution Control Board
Special Assistant Attorney	Clerk's Office
Illinois Environmental Protection Agency	State of Illinois Center
1021 North Grand Avenue East	100 West Randolph
P.O. Box 19276	Suite 11-500
Springfield, IL 62794-9276	Chicago, IL 60601

PLEASE TAKE NOTICE that on June 27, 2007, Respondents filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original and nine (9) copies of an Entry of Appearance for Claire A. Manning, Entry of Appearance for Charles Y. Davis, and a Petition to Contest Illinois Environmental Protection Agency's Administrative Citation.

Date: June 27, 2007

Respectfully submitted,

JOHN A. & KAY E. OLDHAM

By: /s/ Charles Y. Davis  
One of Their Attorneys

BROWN, HAY & STEPHENS, LLP  
Claire A. Manning  
Registration No. 3124724  
Charles Y. Davis  
Registration No. 6286010  
205 S. Fifth Street, Suite 700  
P.O. Box 2459  
Springfield, IL 62705-2459  
(217) 544-8491

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**ADMINISTRATIVE CITATION**

<b>ILLINOIS ENVIRONMENTAL</b>	)	
<b>PROTECTION AGENCY,</b>	)	
	)	
<b>Complainant,</b>	)	<b>AC</b>
	)	
<b>v.</b>	)	<b>(IEPA NO. 156-07-AC)</b>
	)	
<b>JOHN A. &amp; KAY E. OLDHAM,</b>	)	
	)	
<b>Respondent.</b>	)	

**ENTRY OF APPEARANCE OF CLAIRE A. MANNING**

**NOW COMES** CLAIRE A. MANNING, of the law firm of Brown, Hay & Stephens, LLP, and enters her appearance for Respondents, JOHN A. AND KAY E. OLDHAM, in the above referenced cause.

By: /s/ Claire A. Manning  
One of Their Attorneys

**BROWN, HAY & STEPHENS, LLP**  
Claire A. Manning  
Registration No. 3124724  
205 S. Fifth Street, Suite 700  
P.O. Box 2459  
Springfield, IL 62705-2459  
(217) 544-8491

**CERTIFICATE OF SERVICE**

I, on oath state that I have served the attached Entry of Appearance by placing copies in an envelope addressed to:

**Michelle M. Ryan  
Special Assistant Attorney  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276**

**Illinois Pollution Control Board  
Clerk's Office  
State of Illinois Center  
100 West Randolph  
Suite 11-500  
Chicago, IL 60601**

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 27th day of June, 2007.

/s/ Claire A. Manning

**CERTIFICATE OF SERVICE**

I, on oath state that I have served the attached a Petition for Review of Illinois Environmental Protection Administrative Citation by placing copies in an envelope addressed to:

**Michelle M. Ryan  
Special Assistant Attorney  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276**

**Illinois Pollution Control Board  
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Chicago, IL 60601**

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 27<sup>th</sup> day of June, 2007.

/s/ Charles Y. Davis

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**ADMINISTRATIVE CITATION**

**ILLINOIS ENVIRONMENTAL** )  
**PROTECTION AGENCY,** )  
  
**Complainant,** ) **AC**  
  
**v.** ) **(IEPA NO. 156-07-AC)**  
  
**JOHN A. & KAY E. OLDHAM,** )  
  
**Respondent.** )

**ENTRY OF APPEARANCE OF CHARLES Y. DAVIS**

**NOW COMES CHARLES Y. DAVIS**, of the law firm of Brown, Hay & Stephens, LLP,  
and enters his appearance for Respondents, JOHN A. & KAY E. OLDHAM, in the above  
referenced cause.

By: /s/ Charles Y. Davis  
One of Their Attorneys

**BROWN, HAY & STEPHENS, LLP**  
Charles Y. Davis  
Registration No. 6286010  
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from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 27<sup>th</sup> day of June, 2007.

/s/ Charles Y. Davis

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**ADMINISTRATIVE CITATION**

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<b>v.</b>	)	<b>(IEPA NO. 156-07-AC)</b>
	)	
<b>JOHN A. &amp; KAY E. OLDHAM,</b>	)	
	)	
<b>Respondent.</b>	)	

**PETITION TO CONTEST ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S ADMINISTRATIVE CITATION**

**NOW COMES** Respondents, JOHN A. & KAY E. OLDHAM, by and through their attorneys, Brown, Hay & Stephens, LLP, Claire A. Manning and Charles Y. Davis, of counsel, and pursuant to Section 31.1 of the Illinois Environmental Protection Act (415 ILCS 5/31.1), and Part 108 of Title 35 of the Illinois Administrative Code, and as and for their Petition to Contest Illinois Environmental Protection Agency's Administrative Citation, state as follows:

1. On May 22, 2007, Complainant filed an Administrative Citation ("AC") with the Illinois Pollution Control Board ("the Board") alleging, *inter alia*, that the Respondents own and operate an open dumping facility without an Illinois Environmental Protection Agency ("IEPA") permit. See Administrative Citation, *Illinois Environmental Protection Agency v. John A. & Kay E. Oldham*, IEPA No. 139-06-AC at ¶ 1 (May 22, 2007).

2. Respondents are the owners of the property at issue, 693 Oskaloosa Road, in rural Xenia, Clay County, Illinois, but deny that their property is an open dump requiring an IEPA operating permit.

3. The Complainant further alleges that the Respondents violated the Illinois Environmental Protection Act ("Act") as follows:

(1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1).

(2) That Respondents caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7).

4. Section 108.206 of the Board's regulations provides, in part, "a formal petition to contest must include any reasons why the AC recipient believes that AC was improperly issued, including: b) the AC recipient did not cause or allow the alleged violations... d) the alleged violation was the result of uncontrollable circumstances." 35 Ill. Admin. Code Section 108.206.

5. Respondents did not cause or allow the alleged open dumping, which, if such occurred as alleged, was a result of uncontrollable circumstances pursuant to 35 Ill. Admin. Code §§ 108.208(b) and (d).

WHEREFORE, Respondents, JOHN A. & KAY E. OLDHAM, respectfully request that the Illinois Pollution Control Board enter an order dismissing the Administrative Citation and denying civil penalties and any other relief sought therein.

Respectfully submitted,

**JOHN A. & KAY E. OLDHAM,**

By: /s/ Claire A. Manning  
One of Their Attorneys

**BROWN, HAY & STEPHENS, LLP**

Claire A. Manning

Registration No. 3124724

Charles Y. Davis

Registration No. 6286010

205 S. Fifth Street, Suite 700

P.O. Box 2459

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Clerk's Office  
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Suite 11-500  
Chicago, IL 60601**

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 27<sup>th</sup> day of June, 2007.

/s/ Claire A. Manning;\_\_\_\_\_